

Exhibit 65

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:14-CV-00954-LCB-JLW

STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH
CAROLINA, et al.,

Defendants.

AMENDED DEPOSITION
OF
MICHAEL DAVIS
THIS DEPOSITION CONTAINS HIGHLY CONFIDENTIAL AND
PROPRIETARY INFORMATION AND IS SUBJECT TO A PROTECTIVE
ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

TAKEN AT THE OFFICES OF:
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
222 East Cameron Avenue
110 Bynum Hall
Chapel Hill, NC 27514

06-15-17
8:56 A.M.

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Court Reporter

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1 purchase data from ACT and College Board?

2 A. Yes.

3 Q. And once University purchase -- excuse
4 me, once UNC purchases that, it uses it for more
5 than just one thing in your experience?

6 MS. COMBS: Object to form.

7 A. The names that we purchase can only be
8 used for recruitment to that particular
9 university. So, we are bound to only use them to
10 communicate with students about Carolina or
11 general college access, that is also allowed. So
12 they are within our general recruitment plan,
13 which has different components to it.

14 Q. (Mr. Weir) When you say bound, that is
15 the contract that UNC signs with College Board and
16 ACT?

17 A. Correct.

18 Q. And so, when UN -- when the Admissions
19 office purchases that data, it's using it for
20 recruitment generally?

21 A. Yes, correct.

22 Q. How does UNC decide what types of data
23 to purchase from College Board and ACT?

24 A. Since I have been here, it has been a
25 group discussion between myself, Steve, and I have

1 involved Damon Toone and Jared Rosenberg.

2 Q. Add what criteria goes into those
3 conversations? What do you talk about in deciding
4 what to purchase?

5 A. Generally, we are looking for talented
6 students that, based on the information we have
7 available at that time, may indicate that they
8 could be admissible and potentially interested in
9 Carolina.

10 Q. When you say admissible, what do you
11 mean?

12 A. Admissible from the standpoint of, at
13 that stage, the only real information we have
14 about the students is their test score and their
15 self-reported GPA.

16 Q. That's the only data you are able to get
17 from College Board and the ACT?

18 A. It's not the only data that we are able
19 to get, but it's the only data that, to me,
20 signifies how admissible a student may later be.

21 Q. There is no additional data that you can
22 get from College Board and ACT that you believe
23 would go into whether or not a student was
24 admissible?

25 A. Correct.

1 Q. Does UNC purchase data from students
2 that it believes would not be admissible?

3 A. No.

4 Q. And why not?

5 A. We do not want to actively market to and
6 recruit students that we do not believe may be
7 potentially admissible and a good fit for
8 Carolina.

9 Q. So how do you go about setting the
10 cutoffs since the only information you have is GPA
11 and SAT or ACT? So how do you go about setting
12 the cutoff for what is and what is not admissible?

13 A. So it's not a cutoff for what is
14 admissible. It is a cutoff in terms of who we are
15 going to actively market to. I will also mention
16 that any student, whether they come to us through
17 search or not, if they express interest in the
18 University, is also included in our general
19 recruitment activities.

20 Q. Those would be students that actively
21 say, hey, I am interested in UNC through whatever
22 avenue UNC has set up for that?

23 A. Correct.

24 Q. Okay.

25 A. Correct.

1 can go to the next page -- I believe it's the next
2 page, UNC0186729 on the bottom. The second -- I
3 guess, the third row down, "Work with Associate
4 Directors of Diversity and Recruitment to create
5 compelling content for both prospective and
6 admitted students." Under "Audience" it states,
7 "Students likely to be admitted who will
8 contribute to diversity." Do you know what's
9 meant there, what that means?

10 A. I do not.

11 Q. Does the admissions office speak in
12 shorthand of students likely to be admitted?

13 MS. COMBS: Object to form.

14 A. I don't think I understand the question.

15 Q. (Mr. Weir) Sure. Is there any sort of
16 criteria that would put students in a box of one
17 that's likely to be admitted?

18 A. No.

19 Q. So earlier we talked about search and
20 how you choose which bands to purchase and I
21 believe the word you used was, "admissible"?

22 MS. COMBS: Object.

23 Q. (Mr. Weir) You purchase bands that are
24 admissible. Is that correct?

25 A. Potentially admissible.

1 Q. Potentially admissible. And the
2 criteria you use is -- is what? Based on what you
3 can purchase from the College Board? You purchase
4 that at which you think puts the applicant in the
5 "admissible" category?

6 MS. COMBS: Object to form.

7 A. Can you restate that question?

8 Q. (Mr. Weir) Right. I just want to -- I
9 just want to make sure I understand your prior
10 testimony. What did you mean by admissible when
11 we discussed it last time?

12 A. When we were previously discussing it, I
13 believe that I said when we purchase names, we
14 want to purchase them with an eye towards doing
15 our due diligence, that these were students who
16 would be potentially admissible to the University.
17 So not purchasing names that we know for a fact
18 would not be admissible.

19 Q. So you wouldn't -- UNC wouldn't purchase
20 lists of students it knows for a fact are not
21 admissible?

22 A. Our goal would be to avoid that.

23 (EXHIBIT NUMBER 11 WAS MARKED)

24 Q. You're being handed what's been marked
25 as Exhibit 11. Familiarize yourself with this

1 A. Thank you.

2 Q. If you will review this document.

3 (Witness examined document)

4 A. Okay.

5 Q. Are you familiar with this document?

6 A. Yes.

7 Q. Is this an email that you drafted and
8 sent to people in the office?

9 A. It is, yes.

10 Q. And remind me again what Carolina and
11 Beyond is.

12 A. Carolina and Beyond was a recruitment
13 event designed to generate applications and it was
14 a replacement for Academic Days.

15 Q. Is this a -- an email to the office
16 discussing that Carolina and Beyond event and who
17 to invite to it?

18 A. It was an email to the associate group.

19 Q. Is the associate group -- is that --
20 that's the high level group that we discussed
21 earlier with you and Barbara Polk and Steve
22 Farmer?

23 A. Correct.

24 Q. And it -- but this is about setting up a
25 Carolina and Beyond event. Is that right?

1 A. Okay.

2 Q. Have you seen a report like this in your
3 time at UNC?

4 A. I do not recall seeing a report like
5 this, no.

6 Q. Any conversations with any one of the
7 Admissions office about how UNC's undergraduate
8 population compares to peer institutions?

9 A. Not that I specifically recall, no.

10 Q. Are you familiar with the term "critical
11 mass"?

12 A. I have heard of it, but I am not really
13 familiar with what it means.

14 Q. What do you think it means?

15 A. I honestly don't know enough to hazard a
16 guess.

17 Q. Have you had discussions with anybody in
18 the Admissions office about critical mass?

19 A. I have not, no.

20 Q. Have you had any discussions with anyone
21 in the Admissions office about what the ultimate -
22 -- what the perfect student body would look like?

23 A. No, I have not.

24 Q. Have you been instructed by anyone in
25 the admissions office to attain a certain goal

1 with regard to the composition of the
2 undergraduate student body?

3 A. No.

4 MS. COMBS: Object to form.

5 Q. (Mr. Weir) That was a "no"?

6 A. Correct.

7 Q. What do you see as the ultimate goal of
8 your -- you and your staff?

9 MS. COMBS: Object to form.

10 A. I don't think I understand the question.

11 Q. (Mr. Weir) Sure. What do you see as
12 the -- your staff's ultimate goal, or what is your
13 goal from year-to-year in recruiting?

14 MS. COMBS: Object to form.

15 A. I see recruitment as existing to help
16 meet the enrollment goals of the University.

17 Q. (Mr. Weir) And what are the enrollment
18 goals of the University?

19 A. Whatever is provided to us through
20 Steve.

21 Q. Has -- are there -- what are the
22 enrollment goals with regard to underrepresented
23 minority students?

24 MS. COMBS: Object to form.

25 A. We do not have any specific enrollment